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P.012

Attorney's Docket: 2002DE113
Serial No.: 10/517,117
Group: 4132

REMARKS

The Office Action mailed May 28, 2008, has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

Election/Restrictions

The Office has restricted the Application into the following groups:

Group I: claims 1-19; and

Group II: claims 20-21.

Applicants confirm their election of Group I, claims 1-19, without traverse.

In consequence to such election, claims 20 and 21 have been cancelled without prejudice to filing a divisional there upon.

Specification

The Office has objected to the specification, stating tables 3-6 of the specification do not have clear unit nomenclatures. Applicants have amended table's claims 3-6; specifically; the presentation of the Fraaß values have been amended to provide clarity

Claim Objections

Claim 11 is objected to as it is identical to claim 1. By this Amendment, claim 11 has been cancelled.

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Claim Rejections Under 35 USC § 102

Claims 1, 2, 6, 7, 11 and 19 stand rejected under USC § 102(b) over Chatterjee (WO 00/68329). This rejection is respectfully traversed.

Applicants' explicitly recite in independent claim 1 that the the reaction product has an alkali number of less than 10.

Chatterjee discloses amidoamine- respectively imidazoline compounds, useful as emulsifiers for bitumen and are made from fatty acids and "ethylenepolyamines" (page 7, lines 25-30). Ethylenediamine is also included in the term "ethylenepolyamines" (page 9, line 21). Aminonamines resp. imizolines are generated when fatty acids and polyamines are reacted in a molar ratio less or equal 1:1 (for instance also 1:2). Chatterjee describes on page 11, line 7 molar reactions in a ratio from 1:1 to 1:1.5. However, the examples only include reactions between fatty acids and diethylenetriamine in molar ratios from 1:1.1 to 1:1.3. Reactions with ethylenediamine, however, are not comprised in the examples at all.

Contrary to Chatterjee, the present Application refers specifically to reaction products made from certain mixtures of long-chained fatty acids with aliphatic diamines and an alkali number < 10 and an acid number < 15.

Amidoamines and imidazolines described by Chatterjee, however, contain at least one or more free amine functions, which always leads to a high alkali number > 10. This disclosure does not meet the limitation of claim 1.

For at least this reason, it is respectfully contended that Chatterjee can not anticipate the instantly claimed invention as it discloses a alkaline number that is outside the limitation of claim 1.

Claims 1, 6, 11 and 19 stand rejected under 35 USC § 102(b) over SFDP(677,935). This rejection is respectfully traversed.

SFPD refers to amidoamines "obtained by condensing one molecule of an organic acid with one molecule of a polyamine..." This includes reaction products

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obtained from fatty acids and ethylenediamine. The components are always reacted in a ratio 1:1. On page 3, line 24, for instance, the following structure is disclosed: R-CO-NH-R1-NH₂. Such compounds have, due to the number of free amine groups, an alkali number > 10. Again, this disclosure prevents SFPD from meeting the limitation of claim 1, namely an alkali number of < 10.

For at least this reason, it is Applicants' courteous position that SFDP (677,935) can not anticipate the instantly claimed invention.

In view of the foregoing remarks, it is respectfully contended that the 35 USC § 102(b) rejections have been traversed. In consequence, Applicants respectfully requests reconsideration and withdrawal of the rejections.

Claim Rejections Under 35 USC § 103

Claims 3-5, 8, 9, 10, 12 and 13 stand rejected under 35 USC § 103(a) as being unpatentable over Chatterjee in view of Olivier (FR 2765229). This rejection is respectfully traversed.

All of claims 3-5, 8, 9, 10, 12 and 13 depend either directly or indirectly from independent claim 1. In view of their dependency, and in light of the arguments proffered with respect to the 35 USC § 102 rejection of claims 1, 2, 6, 7, 11 and 19 under 35 USC § 102(b) in view of Chatterjee, it is respectfully contended that claims 3-5, 8, 9, 10, 12 and 13 can not be made obvious by any combination of Chatterjee in view of Olivier (FR 2765229).

Claims 3-5, 6-18 stand rejected under 35 USC § 103(a) as being obvious over SFDP in view of Olivier. This rejection respectfully traversed.

Claims 3-5 and 6-18 depend directly and indirectly from independent claim 1. For at least the reasons advanced with respect to 35 USC § 102(b) rejection of independent claim 1 in view of SFDP, it is Applicants' courteous position that claims 3-5 and 6-18 can not be made obvious by any combination of SFDP in view of Olivier.

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In view of the foregoing, it is respectfully contended that the 35 USC § 103 rejections have been traversed. Applicants, therefore, courteously solicit reconsideration and withdrawal of the rejections.

In view of the foregoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, she is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,

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